

The staff report is unclear as to what "*negative impacts to the abutting property*" are avoid by topping the excess-height retaining wall "*with a 42-inch-high glass guardrail.*" I am guessing the planner has safety impacts in mind?

Page 17: In Section 1, statement 5 should say "2013" rather than "2012."

Page 18: The opening paragraph of Section 3 cites Municipal Code Section 20.28.040.I, whose title is "**Adjustment of development area boundary.**" I find nothing in the Resolution that clearly defines what adjustment to the boundary is being approved or where the new boundary will be.

The illustration on page 30 of the agenda packet shows what it claims to be the current (Area "B")/(Area "C") boundary (apparently following the 68.09 foot height contour), and a somewhat arbitrary heavy line (having nothing to do with elevation contours) labeled "Predominant Line of Existing Development." I assume the intent of the Resolution is to move the "B/C" boundary for this one lot to that line, but I don't find that clearly stated.

In Fact B-1, the word "that" seems unwanted, making the sentence ungrammatical, at least to me. I would suggest deleting it.

Page 19: Regarding Fact C-2, see previous comments. The proposed line is consistent with the existing line *only* when viewed from above. Also, *even* when viewed from above, the adjacent lot to the south (also in the ravine) does **not** appear to have developed out horizontally to this limit.

Page 19: In Fact I-1, the use of the word "*unique*" is confusing, making it sound like many (or all?) Irvine Terrace bluff-top properties have the same problem. I think you mean the topography of the project site is unique, in which case "*to other bluff properties in Irvine Terrace*" should be deleted. Alternatively you could delete "*unique*" and say the topography of the project site is *different from* (most) other bluff-top properties along Dolphin Terrace.

Page 22: In Fact K-2, the alternative would seem to be fill the area to the 13 foot below curb level elevation. I assume that would involve building a retaining wall parallel to Bayside Drive, would be detrimental to the stability of the existing slope, and would probably also require a modification permit.

Item No. 4 Plaza Corona del Mar (PA2010-061)

The following comments refer to the January 3, 2013 Staff Report, and the page references are to the handwritten numbers (or, equivalently, the pages in the 124 page PDF)

Although not relevant to the Commission's current decisions, one of my main concerns with this project, to echo those expressed by Dan Purcell in the minutes of the December 6, 2012 hearing (page 90), is the vacation, without any compensation to the City, of the public alley easement at the rear of the Gallo's Deli property. I have not researched the vacation in the 1990's of the much larger segment that wrapped around the rear of the entire plaza, and

apparently connected to PCH, but the vacation of this last piece was presented to the City Council as Agenda Item 23 at its November 27, 2012 meeting. It was presented in the abstract as a useless piece of steeply sloping property that the adjacent private landowners could maintain better than the City, and the Public Works Department and Council seemed clueless that there were any imminent plans for its development. It was also asserted that, although the private owners would acquire additional development rights, all that was being vacated was a public transportation easement, and that the City had never owned the land "in fee." Yet it was shown on the City's online maps in the same manner as any other public streets and there was no indication the private property lines extended into it. The March 18, 2010 map on page 110 of the present staff report also suggests the unvacated alley segment behind Gallo's was never part of the private properties.

It was, then, quite surprising to see notices posted a couple of days later of the December 6, 2012 Planning Commission hearing on development of "Plaza Corona del Mar," and even more surprising to find in the agenda packet the Tentative Tract Map (page 111 of the present staff report) dated October 2012 (prior to any Council decision) showing the vacated City property as an accomplished fact integral to the development plans. Even if the City's only interest in the alley was, as the Public Works Director stated, an easement, its vacation clearly had value to the developer, and its transfer without compensation seems to me an improper gift of public funds.

At the very least, I would have thought the City Council should have been made fully aware of the proposed development and shown the plans and Tentative Tract Map before making its decision about the fate of the alley.

Page 1: The captioning information at the top of the first page of the staff report refers to a "Variance No. VA2012-002," as does the Resolution. Yet, as it did on December 6, 2012, the *Recommended Action* in the agenda, and on the 4th line from the bottom of page 1, refer to "Variance No. VA2012-007."

Although the second paragraph of the present report indicates it supplements the prior report, for those who have not followed this application closely, and even for those who have, it would seem helpful to provide a reference to where the previous report can be viewed, since much background information about what is being proposed for approval at this meeting is not included here, including the explanation of the revised Tentative Tract Map supplied separately, as a correction, after the previous report was issued (see comment regarding page 44, Condition 14, below).

Page 3: Alternative 3 seems to be describing three guest spaces in the underground garage (one van accessible *plus* two standard). Isn't that one more than the total of two the staff report says is required by the Zoning Code?

Page 4: Although it does not seem a condition of approval, the staff encouragement of painting each unit a different color would seem to me to produce a development with an excessively busy look. I would think a couple of colors, alternated, would be more pleasing.

Page 5: Regarding the possibility of redesigning/rebuilding the Gallo's Deli use, the first two paragraphs indicate that *"preservation of the existing structure is not required"* to maintain the rights enjoyed under Specialty Food Permit No. 38, and that *"staff is not opposed to the construction of an entirely new structure."* However it is not clear either resolution is intended to leave that option open. Condition of Approval 1 (handwritten pages 35 and 71) says the development has to *"be in substantial conformance"* with the submitted plans, which are presumably illustrating the proposed *"steel frame superstructure with independent footings, columns and beams from the existing building."*

Page 26: With regard to the need to grant a variance from the normal 20 foot setback, the Facts presented in support of Findings B and C really seem only to support Finding D (that approving the variance would not be a grant of a special privilege inconsistent with other properties in the vicinity). Some of the properties cited for comparison do not appear to have *identical* zoning classifications (a requirement of Finding B), nor, without knowing how the other properties obtained their more permissive standards, does it seem convincing that approval of the variance is necessary to preserve an existing property *right* (Finding C). The City would seem to lose its ability to impose zoning standards on particular properties if they can be overridden simply because different standards are observed elsewhere.

Page 27: [typo in last full line] *"the commercial lots to the west which ~~se~~ do not have front setback requirements."*

Page 30: [Finding C] As previously commented, beyond discharge of fill (dirt?), it seems possible the project could add undesired water/pollutant drainage into Buck Gully (cf. item 4 in the public comment letter on page 99). Conditions of approval 22, 24, 26 and 27 on page 37 (and #56 on page 41) appear intended to minimize some of that possibility, but it remains unclear how the development may alter the impact of rainwater runoff into the gully.

Page 33: [Fact J-2] *"Chapter 14.24"* appears, without saying so, to be a reference to the Newport Beach Municipal Code.

Page 36: Is the Condition 17 restriction of daytime parking to *"commercial tenants"* intended to prohibit Gallo's customers from using the 10 off-street spaces? That is, was the previous *"and customers"* language in Condition 10 intentionally deleted?

Page 37: Very minor typo in Condition 28: *"the applicant shall prepare a photometric study."*

Page 39: Condition 39 appears to be a standard one, but I'm not entirely sure what the second sentence is intended to do. First, is it supposed to read *"Issues with regard to..."* rather than *"The issues with regard to ..."*? Second, does it mean the establishment is subject to AQMD regulations? Or that if complaints are received, the operator is supposed to refer them to the AQMD?

As a general comment, since the conditions of approval refer to five discretionary grants (UP2012-011, MD2012-011, SD2012-001, NT2012-001 and VA2012-002) affecting up to two properties and an existing use, it is frequently difficult to tell what conditions are intended to apply to what actions. For example, are Conditions 39 and 40 intended to apply only to the Deli

use? Or to the entire commercial use? Or to the entire development, including the residential kitchens?

Regarding building across the existing property lines (in Condition 41), I am guessing that with regard to the retaining wall extending into what was previously an undeveloped City alley, the recording of the tract map requires completion of the vacation and adjustment of the property lines in that area, if any is required.

Page 40: [Condition 49] The last sentence is probably intended to read "~~As per~~ Guideline G.02. *tree species are not allowed...*"

Page 43: It is unclear why the Tract Map Conditions are numbered separately from the others. In the draft resolution presented at the December 6, 2012 meeting, as in the previous sections, they simply continued the sequence.

Page 44: I have not seen an explanation of the significance of the existing public easements referred to in Conditions 10 and 11, at the east edge of the property, and what would be gained/lost by vacating and/or realigning them.

In Condition 14, the reference to the error regarding the 82-square-foot notched area on the Tract Map no longer seems relevant since the map provided on page 111 of the current agenda packet no longer shows it.

A final concern is whether proper ventilation of the underground parking garage is adequately addressed.

Note regarding pages 45ff: most of the comments regarding pages 10ff, above, apply equally to the Alternative Resolution starting on page 47.

Page 56: (Fact B-3) Although the parking lot crosses the proposed property lines, the Tentative Tract Map on page 111 suggests the stalls are entirely on the residential Lot 1. To those, like myself, unfamiliar with the rules governing Tract Maps, if the parking is to be used exclusively by the commercial uses, one wonders why the two lots are not being defined so that the entire parking area, including the stalls, is assigned to the commercial Lot 2. Then the only shared use would be the residents' right to use the shared trash enclosure on the commercial lot – which raises the question why the residential trash responsibilities aren't on the residential lot to start with.

Page 72: Condition 18, calling for the development of an agreement between the commercial and residential owners for use of the ground level parking lot seems incompatible with Condition 14, which restricts use of that lot to "*commercial tenants and customers only.*"

Page 104: Staff appears to disagree with the architect's belief that the project is in the Coastal Zone and will require Coastal Commission approval. Considering its proximity to Buck Gully, my guess is the property may have been improperly excluded from the Coastal Zone when the maps were first drawn (or Buck Gully contained less of a stream, then).